



PUBLIC NOTICE

Federal Communications Commission
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DA 04-1690

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MEDIA BUREAU SEEKS COMMENT ON WAYS TO FURTHER SECTION 257 MANDATE AND TO BUILD ON EARLIER STUDIES

Comment Date: 30 days from publication in the Federal Register

Reply Date: 45 days from publication in the Federal Register

The Media Bureau (Bureau) is seeking comment on constitutionally permissible ways to further the mandates of Section 257 of the Telecommunications Act of 1996, 47 U.S.C. § 257, which directs the FCC to identify and eliminate market entry barriers for small telecommunications businesses, and Section 309(j) of the Communications Act of 1934, 47 U.S.C. § 309(j), which requires the FCC to further opportunities in the allocation of spectrum-based services for small businesses and businesses owned by women and minorities. We specifically encourage commenters to discuss possible next steps to further these statutory objectives in a constitutionally permissible manner, especially in light of two recent Supreme Court decisions. See Grutter v. Bollinger, 539 U.S. 306 (2003); Gratz v. Bollinger, 539 U.S. 244 (2003).

Commenters should discuss and proffer specific recommendations for building on the series of market entry barrier studies listed below. These studies were conducted pursuant to Section 257 of the Telecommunications Act of 1996, 47 U.S.C. § 257, and Section 309(j) of the Communications Act of 1934, 47 U.S.C. § 309(j), and released by the Commission in December 2000. In particular, we urge commenters to identify any recent analyses relevant to the conclusions of the studies.

- Diversity of Programming in the Broadcast Spectrum: Is There a Link Between Owner Race or Ethnicity and News and Public Affairs Programming? (the “Content/Ownership Study”).
- Study of the Broadcast Licensing Process, consisting of three parts: History of the Broadcast Licensing Process; Utilization Rates, Win Rates and Disparity Ratios for Broadcast Licenses Awarded by the FCC; and Logistic Regression Models of the Broadcast License Award Process for Licenses Awarded by the FCC (the “Broadcasting Licensing Study”).
- FCC Econometric Analysis of Potential Discrimination Utilization Ratios for Minority- and Women-Owned Companies in FCC Wireless Spectrum Auctions (the “Auction Utilization Study”).

- Study of Access to Capital Markets and Logistic Regressions for License Awards by Auctions (the “Capital Markets and Auctions Regression Study”) *aka* “Discrimination in Capital Markets, Broadcast/Wireless Spectrum Service Providers and Auction Outcomes.”
- Whose Spectrum Is It Anyway? Historical Study of Market Entry Barriers, Discrimination and Changes in Broadcast and Wireless Licensing 1950 to Present (the “Historical Study”).
- When Being No. 1 Is Not Enough: the Impact of Advertising Practices On Minority-Owned & Minority-Formatted Broadcast Stations (the “Advertising Study”) (released January, 1999).

The studies are available on the FCC’s web site at http://www.fcc.gov/opportunity/meb_study/, except for the Advertising Study, which is available on the FCC’s web site at http://www.fcc.gov/Bureaus/Mass_Media/Informal/ad-study/. The studies are also available on the Commission’s Electronic Filing System (ECFS) under MB Docket No. 04-228.

Comments must be filed on or before [30 days after publication of the PN in the Federal Register]; and reply comments must be filed by [45 days after publication in the Federal Register]. Comments and reply comments may be filed using the Commission’s Electronic Filing System or by filing paper copies (an original and four copies). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg 24121 (1998). All comments should reference MB Docket No. 04-228.

Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, “get form.” A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission’s contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission’s Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

Parties also must serve either one copy of each filing via e-mail or two paper copies to Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C., 20554, telephone (800) 378-3160, or via email to fcc@bcpweb.com. In addition, parties should serve

one copy of each filing via email or three paper copies to Linda Senecal, 445 12th Street, S.W., 2-C438, Washington, D.C., 20554.

Availability of Documents. Comments, reply comments, and ex parte submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, S.W., CY-A257, Washington, D.C. 20554. Persons with disabilities who need assistance in the FCC Reference Center may contact Bill Cline at (202) 418-0267 (voice), (202) 418-7365 (TTY), or bcline@fcc.gov. These documents also will be available from the Commission's Electronic Comment Filing System. Documents are available electronically in ASCII, Word 97, and Adobe Acrobat. Copies of filings in this proceeding may be obtained from Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room, CY-B402, Washington, D.C., 20554, telephone (800) 378-3160, fax (202) 488-5563, via email at fcc@bcpiweb.com, or via its website at www.bcpiweb.com. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0531 (voice), 202-418-7365 (TTY).

For further information, contact Anne Levine at (202) 418-7027 or via email at Anne.Levine@fcc.gov.

By the Chief, Media Bureau

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